

ESTTA Tracking number: **ESTTA55249**

Filing date: **11/28/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91161373
Party	Defendant Barilla Alimentare S.p.A. Barilla Alimentare S.p.A. Via Mantova 166 ITX Parma PR, OH 43100
Correspondence Address	G. FRANKLIN ROTHWELL ROTHWELL FIGG ERNST & MANBECK PC 1425 K STREET, N.W. SUITE 800 WASHIINGTON, DC 20005
Submission	Reply in Support of Motion
Filer's Name	Carla C. Calcagno
Filer's e-mail	PTO-TM-Email@rothwellfigg.com
Signature	/Carla Calcagno/
Date	11/28/2005
Attachments	22009.pdf (6 pages) EXHIBIT A.pdf (10 pages) EXHIBIT B.pdf (2 pages) EXHIBIT C.pdf (8 pages) EXHIBIT D.pdf (8 pages)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

American Italian Pasta Company)	
)	
Opposer,)	
)	
v.)	
)	OPPOSITION NO. 91161373
Barilla G. E R. Fratelli)	
)	
)	
)	
Applicant.)	

**REPLY IN FURTHER SUPPORT OF
MOTION FOR EXTENSION OF TIME**

To correct certain facts Opposer has misstated, Applicant submits this brief in further support of its motion for a two-day extension of the discovery period.

FACTS

On September 9, 2004, six weeks after the Board instituted this case, Applicant served its first set of production requests on Opposer. On February 22, 2005, Applicant served a second set of production requests on Opposer. Applicant extended Opposer's time to produce documents responsive to these first requests seven months – until the late spring and summer of 2005. See, correspondence attached as **Exhibit A**. Specifically, Opposer mailed out its first production documents on April 1, 2005, consisting of 5,000 pages of documents. The "remainder," consisting of over 5,900 pages of documents, was mailed to Applicant on May 6, May 10, 2005 and June 4, 2005. Discovery was scheduled to close on May 8, 2005. Because of the late service of these documents, on May 9, 2005, the parties moved for an extension of the discovery period.

On May 6, 2005, fully six weeks after Applicant's last set of discovery responses were sent to Opposer, Opposer moved to amend the opposition. Allegedly, Opposer could not have pled this ground sooner because it needed to review Applicant's discovery response. Applicant's responses however had been served on Opposer on March 30, 2005. They consisted of less than twenty pages of documents. In its motion supporting the motion to amend, Opposer expressly disavowed the need for any further discovery.

In response to Opposer's new ground for Opposition, Applicant moved to extend discovery. The Board suspended the case on July 1, 2005 pending the resolution of the Motion to Amend, as it would impact on discovery. On September 14, 2005, the Board issued an order scheduling discovery to close on November 1, 2005. Applicant did not receive this order until September 26, 2005. And Applicant's counsel was injured in a car accident on October 18, 2005.

ARGUMENT

As the Board knows, two separate and independent grounds exist for Applicant's motion to extend. The first is that Applicant was burdened with a two week delay in receiving the Board's order setting discovery. This ground in and of itself constitutes good cause for a two day extension of discovery.

The second reason is counsel's accident, preventing her from working because she could not sit or walk without pain or further injury. According to Opposer's rhetoric, the Board should nonetheless deny Applicant's motion because "two other attorneys are actively involved in the case." This is news to Applicant's counsel. Applicant's counsel's boutique firm primarily

specializes in patent prosecution, and in litigation. Only one other lawyer – an associate- engages routinely in any trademark work. She is busy with a trial. Mr. Rothwell is well into his mid-seventies. He cannot engage in reviewing thousands of discovery documents – as those sent to Applicant here. Further, despite what Opposer wrote in his brief, as he well knows, Mr. Cameron has not been with is firm since at least May 1, 2005. See **Exhibit B**. Precisely because of these staffing issues, counsel worked at least part time, at time lying down on her back in office, in direct contravention of her doctor's orders. The simple fact is that Applicant's counsel was not supposed to be working at all. Despite this, counsel worked diligently and painfully to try to complete discovery.

Opposer also argues that equity should favor the diligent. Applicant agrees. This argument favors Applicant. As is evident from the foregoing statement of facts, Applicant has acted diligently. Opposer on the other hand has not. Despite the language and cooperative tone of the motions Opposer, not Applicant, has been responsible for major delays in this case. Opposer, not Applicant, delayed serving its production documents for six to nine months. See **Exhibit A**. Opposer, not Applicant, belatedly moved to amend the Opposition as the period for discovery was closing, forcing Applicant to move for a reopening.

Opposer also argues that he somehow was strategically denied a chance to seek a two day extension of discovery. This argument runs directly contrary to logic and fact. The simple fact is that Opposer previously has admitted that he does not need further discovery. Specifically, Opposer has opposed on its motion to amend, any further need for discovery. Further, in an email to the undersigned, Opposer admitted that it had timely received the Board's scheduling

Order. It is clear therefore that this is simply a strategic request on the part of the Opposer to avoid answering Applicant's discovery.

In short, the only reason Opposer is objecting to the motion is because it wishes to prevent material information from being introduced at the Board. The discovery Opposer does not want to answer are admission requests. These requests ask Opposer to admit that during a prior civil action Opposer admitted that its pleaded "mark" in this case "AMERICA'S FAVORITE PASTA" was no mark at all, but rather was "puffery" and is "non-actionable," and if construed as a trademark at all, is "generic."

The discovery requests were served on November 3, 2005 precisely because Opposer previously had refused to answer such requests without a motion to compel to the Board. Specifically, directly after receiving the production documents from Opposer on May 9, 2005, consisting of over 5,000 documents including briefs in which Opposer made these admissions, in June 2005, Applicant had asked Opposer to admit the authenticity of those documents. As the Board is well aware, such requests are standard practice at the Board to introduce documents by the adverse party by notice of reliance. Opposer responded by objecting. The Board then suspended the case, and so far, Opposer has refused to answer these requests. See, attached **Exhibits C and D**. (As the Board knows, directly after receiving Opposer's objections, this case was suspended until September 14, 2005, when this case was resumed, following which the accident occurred).

To avoid burdening the Board with a motion to compel, Applicant asked Opposer to admit it made certain statements and admissions in a civil action before a court. To prepare such

detailed admission requests, however, counsel for Applicant needed to review each of the 5,000 documents belatedly produced by Opposer thoroughly and completely.

In short, the delays in this case have been caused largely by Opposer and not by Applicant, and by Opposer's failure to comply with the standard rules governing discovery before the Board.

Applicant has shown more than sufficient cause for a two-day extension of the discovery period and Opposer has failed to show any prejudice. Wherefore, Applicant's motion for a two-day extension of the discovery period should be granted.

Respectfully submitted,

Barilla G. E R. Fratelli -
Società Per Azioni

By



Carla C. Calcagno
Attorneys for Applicant
ROTHWELL, FIGG, ERNST & MANBECK
1425 K Street, N.W., Suite 800
Washington, D.C. 20005
Telephone: (202) 783-6040

Dated: November 28, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REPLY IN FURTHER SUPPORT FOR MOTION FOR EXTENSION OF TIME was served via first-class mail, in a postage prepaid envelope, on counsel for Opposer as follows:

Thomas H. Van Hoozer, Esq.
Law Offices of Hovey Williams LLP
2405 Grand Boulevard
Suite 400
Kansas City, Mo. 64108-2519

This 28th day of November, 2005.



Joan Adair

EXHIBIT
A

LAW OFFICES

HOVEY WILLIAMS LLP

A LIMITED LIABILITY PARTNERSHIP
OF PROFESSIONAL CORPORATIONS

ESTABLISHED 1929

INTELLECTUAL PROPERTY LAW
U.S. & FOREIGN PATENTS,
TRADEMARKS, COPYRIGHTS
& UNFAIR COMPETITION CAUSES

2405 GRAND BOULEVARD
SUITE 400
KANSAS CITY, MO. 64108-2519

TELEPHONE 816-474-9050
FACSIMILE 816-474-9057

www.hoveywilliams.com

ROBERT D. HOVEY, P. C.
WARREN N. WILLIAMS, P. C.
STEPHEN D. TIMMONS, P. C.
JOHN M. COLLINS, P. C.
THOMAS H. VAN HOOZER, P. C.
THOMAS B. LUEBBERING, P. C.
ANDREW G. COLOMBO, P. C.
SCOTT R. BROWN, P. C.
TRACY L. BORNMAN, P. C.

MICHAEL ELBEIN, P. C., OF COUNSEL
ALLEN W. RICHMOND, OF COUNSEL
(ADMITTED IN OKLAHOMA ONLY)

JILL D. SINGER
TRACEY S. TRUITT
DAVID V. AYRES
KAMERON D. KELLY
JASON E. GORDEN
GREGORY J. SKOCH
CHERYL L. BURBACH
JENNIFER C. BAILEY
RACHEL L. PICKERING

DAVID TERRELL, PATENT AGENT

October 14, 2004

G. Franklin Rothwell
Rothwell, Figg, Ernst & Manbeck P.C.
1425 K Street, NW, Suite 800
Washington, D.C. 20005

RE: American Italian Pasta Company v. Barilla G.E.R. Fratelli-Societa Per Azioni
Opposition No. 91-161,373

Dear Mr. Rothwell:

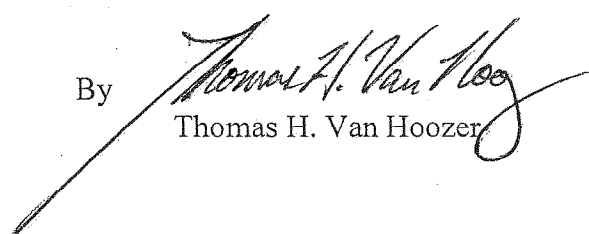
Enclosed herewith please find Opposer's Answers to Applicant's First Set of Interrogatories, Opposer's Responses to Applicant's First Request for Production of Documents, and Opposer's Answers to Applicant's First Requests for Admission. We are compiling and preparing to copy the non-confidential documents to be produced in response to your request. Because a number of the requests and interrogatories seek confidential commercial information, and likely Barilla's responses will include information also falling in this category, we have prepared and also enclose a draft protective order for your review. The draft protective order uses the standard TTAB format and we have included provisions for signatures by the parties themselves as well as counsel. If this is acceptable to you, let us know and we shall have it signed by the opposer and ourselves and forward it to you for execution.

Given the bulk of the documents which may be involved, we inquire as to whether you would agree to have the documents copied onto a compact disk, and forwarded in that format, with originals to be made available for inspection if desired.

Very truly yours,

HOVEY WILLIAMS LLP

By


Thomas H. Van Hoozer

TVH:tlm
Encls.

ROTHWELL, FIGG, ERNST & MANBECK

To: File

From: RHC

File: 2778-157

Date: March 9, 2005

Subject: Voice Mail Message

Robert this is Cheryl Burbach at Hovey Williams, I work with Tom van Hoozer and he has enlisted my help with the American Italian pasta company v Barilla opposition. You had sent a letter regarding setting a time to exchange documents in the case. I am currently having copies made, I am going out of town today however, and I won't return until Monday, what I would like to do is follow up with you on Monday, if that works for you, if not you can call me at 816-474-9050 I will follow up with you on Monday if I don't hear from you. If that does not work, just call me and let me know.

-----Original Message-----

From: Cheryl Burbach [mailto:clb@hoveywilliams.com]
Sent: Thursday, March 24, 2005 3:48 PM
To: Robert H. Cameron
Subject: American Italian Pasta/Barilla opposition

Robert,

I've just about completed my review of the documents to produce, but will not be able to get them to you this week. I had a medical procedure yesterday and our office is closed tomorrow for Good Friday. I should have them to you by mid-week next week. Please let me know if that is a problem. I could produce them to you piecemeal, but that might get confusing.

I appreciate your cooperation. I will be in tomorrow morning if you need to reach me.
Thanks.

Cheryl L. Burbach
Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108
Phone: 816-474-9050
Fax: 816-474-9057

CONFIDENTIALITY NOTE

This message is intended only for the addressee. The information contained in this message is confidential, may be attorney-client privileged, and may constitute inside or non-public information under federal or state securities laws. Unauthorized use of this information is strictly prohibited and may be unlawful. If you are not the addressee, please promptly delete this message and notify us of the delivery error by return e-mail or you may call us at the above listed number.

-----Original Message-----

From: Cheryl Burbach [mailto:clb@hoveywilliams.com]
Sent: Thursday, March 31, 2005 5:20 PM
To: Robert H. Cameron
Cc: Tom Van Hoozer; Jennifer L Withers; Katie R. Bray
Subject: AIPC v. Barilla

Robert,

Thanks for your letter. We have sent out our document production for imaging and expect to send you the CD-Roms tomorrow. I will be out of the office tomorrow and Monday, but Tom Van Hoozer will be available, as well as Jennifer Withers (my legal assistant) and Katie Bray (my paralegal). If you have any questions you may contact them.

Certain of those documents bear the designation "CONFIDENTIAL COUNSEL ONLY." Those documents fall within the category of "Trade Secrets/Commercially Sensitive Information" under the Protective Order that was filed with the TTAB. Please let us know if you have any questions.

Cheryl L. Burbach
Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108
Phone: 816-474-9050
Fax: 816-474-9057

CONFIDENTIALITY NOTE

This message is intended only for the addressee. The information contained in this message is confidential, may be attorney-client privileged, and may constitute inside or non-public information under federal or state securities laws. Unauthorized use of this information is strictly prohibited and may be unlawful. If you are not the addressee, please promptly delete this message and notify us of the delivery error by return e-mail or you may call us at the above listed number.

DATE	PRODUCTION RANGE
04/01/05	A 5000 - A 10826
05/05/05	A 10832 - A 10863
05/09/05	U 00001 - U 04570
05/10/05	A 10864 - A 10880
06/03/05	A 10881 - A 11284

LAW OFFICES
HOVEY WILLIAMS LLP
A LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATIONS
ESTABLISHED 1929
INTELLECTUAL PROPERTY LAW
U.S. & FOREIGN PATENTS, TRADEMARKS, COPYRIGHTS
& UNFAIR COMPETITION CAUSES

Cheryl L. Burbach
clb@hoveywilliams.com
816.474.9050 ext. 383

April 1, 2005

Mr. Robert H. Cameron
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K Street, NW, Suite 800
Washington, D.C. 20005

Re: *American Italian Pasta Company v. Barilla G. E. R. Fratelli-Societa Per Azioni*
Opposition No. 91-161,373

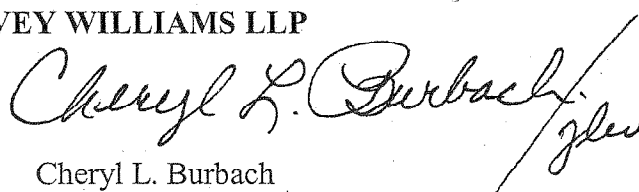
Dear Robert:

Enclosed are five video tapes and two CD ROMs containing documents we are producing in response to your First and Second Requests for Production of Documents.

Sincerely,

HOVEY WILLIAMS LLP

By


Cheryl L. Burbach

CLB:jlw

Enclosures

cc: Mr. Drew Lericos (w/o enclosures)
Thomas H. Van Hoozer (w/o enclosures)

LAW OFFICES
HOVEY WILLIAMS LLP

A LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATIONS

ESTABLISHED 1929

INTELLECTUAL PROPERTY LAW
U.S. & FOREIGN PATENTS, TRADEMARKS, COPYRIGHTS
& UNFAIR COMPETITION CAUSES

Thomas H. Van Hoozer
tvh@hoveywilliams.com

May 6, 2005

Carla Calcagno
~~Mr. Robert H. Cameron~~
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, NW, Suite 800
Washington, D.C. 20005

RE: American Italian Pasta Company v. Barilla G.E.R. Fratelli-Societa Per Azioni
Opposition No. 91161373

Dear Robert:

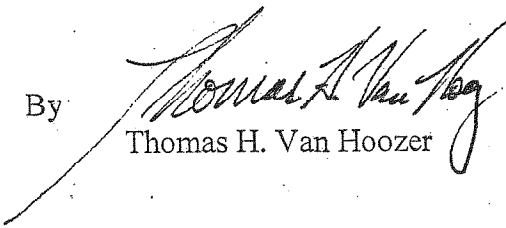
Enclosed please find one CD ROM containing production numbers 10832-10863 which supplement our responses to your First and Second Requests for Production of Documents.

We have also identified certain other documents produced by Unilever/Best Foods in the course of the litigation which are in our possession and which we are having copied today. We will forward CDs with these documents no later than Monday.

Sincerely,

HOVEY WILLIAMS LLP

By


Thomas H. Van Hoozer

TVH:tlm
Encl.

cc: Cheryl Burbach

2405 GRAND BOULEVARD SUITE 400 KANSAS CITY, MISSOURI 64108-2519

T 816.474.9050 F 816.474.9057

www.hoveywilliams.com

LAW OFFICES
HOVEY WILLIAMS LLP
A LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATIONS
ESTABLISHED 1929

INTELLECTUAL PROPERTY LAW
U.S. & FOREIGN PATENTS, TRADEMARKS, COPYRIGHTS
& UNFAIR COMPETITION CAUSES

Thomas H. Van Hoozer
tvh@hoveywilliams.com

May 10, 2005

Mr. Robert H. Cameron
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, NW, Suite 800
Washington, D.C. 20005

RE: American Italian Pasta Company v. Barilla G.E.R. Fratelli-Societa Per Azioni
Opposition No. 91161373

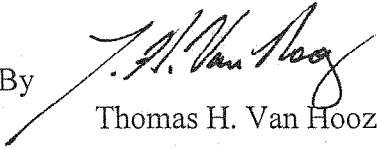
Dear Robert:

Enclosed please find two CD ROMs. One containing documents produced by Unilever/Best Foods in the course of the New World Pasta litigation. The second contains American Italian Pasta production numbers 10864-10880 supplementing our responses to your discovery requests.

Sincerely,

HOVEY WILLIAMS LLP

By


Thomas H. Van Hoozer

TVH:tlm
Encl.

cc: Cheryl Burbach

LAW OFFICES
HOVEY WILLIAMS LLP
LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATIONS
ESTABLISHED 1929
INTELLECTUAL PROPERTY LAW
U.S. & FOREIGN PATENTS, TRADEMARKS, COPYRIGHTS
& UNFAIR COMPETITION CAUSES

Thomas H. Van Hoozer
tvh@hoveywilliams.com

June 4, 2005

Ms. Carla Calcagno
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, NW, Suite 800
Washington, D.C. 20005

RE: American Italian Pasta Company v. Barilla G.E.R. Fratelli-Societa Per Azioni
Opposition No. 91161373

Dear Carla:

Enclosed please find a CD ROM containing American Italian Pasta production numbers 10881-11284 supplementing our responses to your discovery requests.

Sincerely,

HOVEY WILLIAMS LLP

By


Thomas H. Van Hoozer

TVH:tlm
Encl.

cc: Cheryl Burbach

EXHIBIT
B

LAW OFFICES
HOVEY WILLIAMS LLP
A LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATIONS
ESTABLISHED 1929
INTELLECTUAL PROPERTY LAW
U.S. & FOREIGN PATENTS, TRADEMARKS, COPYRIGHTS
& UNFAIR COMPETITION CAUSES

Thomas H. Van Hoozer
tvh@hoveywilliams.com

May 6, 2005

Carla Calcagno
~~Mr. Robert H. Cameron~~
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, NW, Suite 800
Washington, D.C. 20005

RE: American Italian Pasta Company v. Barilla G.E.R. Fratelli-Societa Per Azioni
Opposition No. 91161373

Dear Robert:

Enclosed please find one CD ROM containing production numbers 10832-10863 which supplement our responses to your First and Second Requests for Production of Documents.

We have also identified certain other documents produced by Unilever/Best Foods in the course of the litigation which are in our possession and which we are having copied today. We will forward CDs with these documents no later than Monday.

Sincerely,

HOVEY WILLIAMS LLP

By


Thomas H. Van Hoozer

TVH:tlm
Encl.

cc: Cheryl Burbach

2405 GRAND BOULEVARD SUITE 400 KANSAS CITY, MISSOURI 64108-2519

T 816.474.9050 F 816.474.9057
www.hoveywilliams.com

EXHIBIT
C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN ITALIAN PASTA)	
COMPANY,)	
)	
Opposer)	
)	
v.)	Opposition No. 91-161,373
)	
BARILLA G. E R. FRATELLI - SOCIETA)	
PER AZIONI)	
)	
Applicant.)	

APPLICANT'S THIRD SET OF REQUESTS FOR ADMISSION NOS. 15-20

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, as incorporated into the Trademark Rules of Practice, Applicant, Barilla G.E R. Fratelli - Societa Per Azioni ("Barilla"), propounds the following Requests for Admission to Opposer, American Italian Pasta Company ("AIPC") for which responses are to be served on Barilla's counsel, Rothwell, Figg, Ernst & Manbeck, 1425 K Street, NW, Suite 800, Washington, DC 20005, c/o Carla C. Calcagno, Esq., within thirty (30) days of the service hereof.

For purposes of these Requests, Applicant adopts the Definitions and Instructions in Applicant's First Set of Interrogatories to Opposer.

For the convenience of the parties and the Board, each Request for Admission should be quoted in full immediately preceding the response.

REQUESTS

Request No. 15:

Admit that the documents Bates Numbered A05000 – A05073 contained on the CD-ROM attached hereto as **Exhibit A** are true and authentic copies of documents produced by Opposer.

Request No. 16:

Admit that the documents Bates Numbered A05074 – A10826 contained on the CD-ROM attached hereto as **Exhibit B** are true and authentic copies of documents produced by Opposer.

Request No. 17:

Admit that the documents Bates Numbered A10832-A10863 contained on the CD-ROM attached hereto as **Exhibit C** are true and authentic copies of documents produced by Opposer.

Request No. 18:

Admit that the documents Bates Numbered U00001 – U04570 contained on the CD-ROM attached hereto as **Exhibit D** are true and authentic copies of documents produced by Opposer.

Request No. 19:

Admit that the documents Bates Numbered A10864- A10880 contained on the CD-ROM attached hereto as **Exhibit E** are true and authentic copies of documents produced by Opposer.

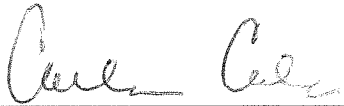
Request No. 20:

Admit that the documents Bates Numbered A10881 – A11284 contained on the CD-ROM attached hereto as **Exhibit F** are true and authentic copies of documents produced by Opposer.

Respectfully submitted,

BARILLA G. E R. FRATELLI - SOCIETA PER AZIONI

By: _____

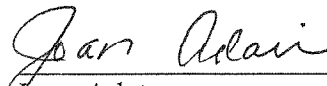

G. Franklin Rothwell
Carla C. Calcagno
ROTHWELL, FIGG, ERNST & MANBECK P.C.
1425 K Street, NW, Suite 800
Washington, DC 20005
Telephone: (202) 783-6040
Facsimile: (202) 783-6031

Dated: June 7, 2005

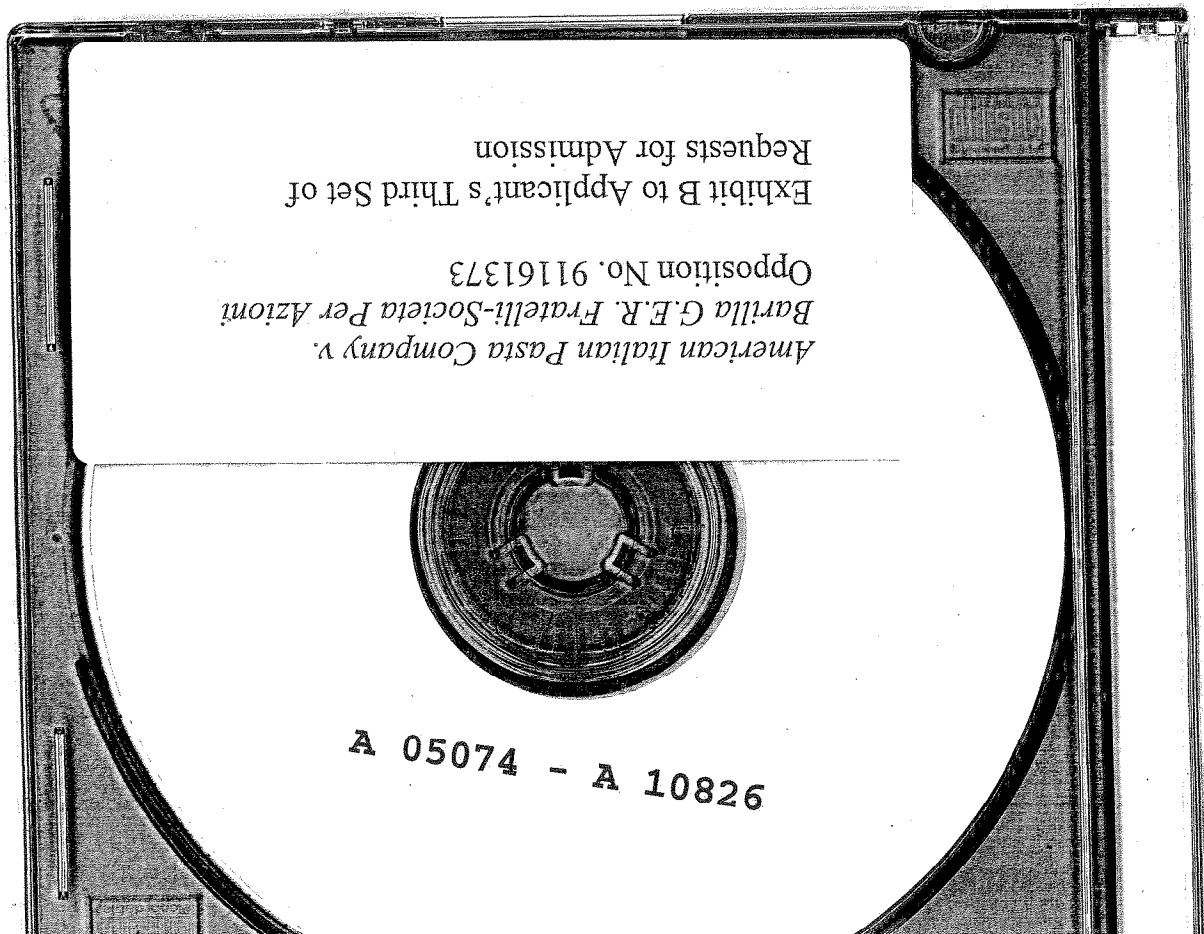
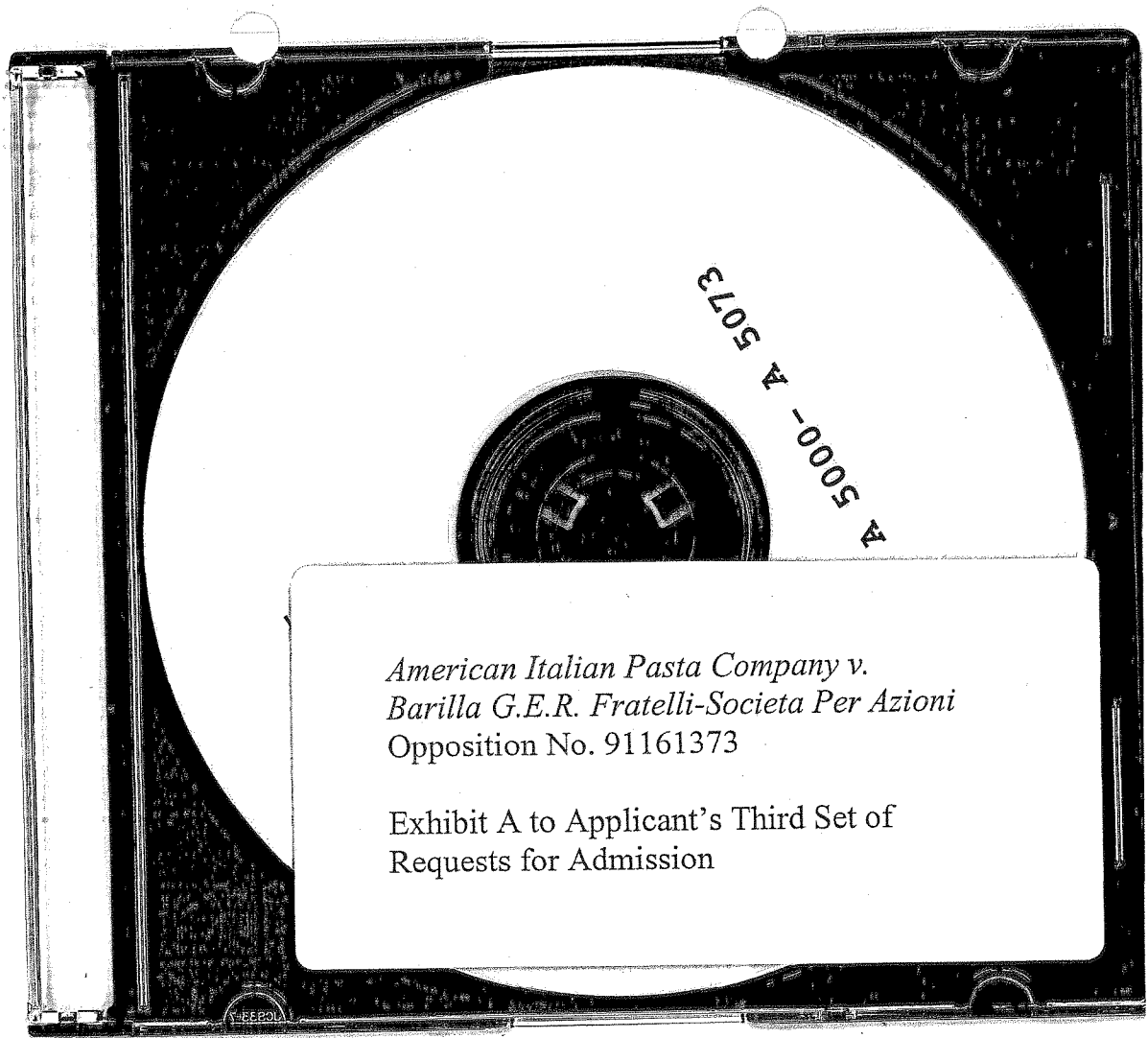
CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of June, 2005, I served the foregoing APPLICANT'S
THIRD SET OF REQUESTS FOR ADMISSIONS NOS. 15- 20 by causing a true copy thereof
to be sent, via first class mail, postage prepaid to the following address:

Thomas H. Van Hoozer
Hovey Williams LLP
2405 Grand Blvd., Suite 400
Kansas City, MO 64108



Joan Adair



A 10832 - A 10863

*American Italian Pasta Company v.
Barilla G.E.R. Fratelli-Societa Per Azioni*
Opposition No. 91161373

Exhibit C to Applicant's Third Set of
Requests for Admission

U 00001 - U 04570

*American Italian Pasta Company v.
Barilla G.E.R. Fratelli-Societa Per Azioni*
Opposition No. 91161373

Exhibit D to Applicant's Third Set of
Requests for Admission

A 10864 - A 10880

*American Italian Pasta Company v.
Barilla G.E.R. Fratelli-Societa Per Azioni*
Opposition No. 91161373

Exhibit E to Applicant's Third Set of
Requests for Admission

A 10881 - A 11284

*American Italian Pasta Company v.
Barilla G.E.R. Fratelli-Societa Per Azioni*
Opposition No. 91161373

Exhibit F to Applicant's Third Set of
Requests for Admission

EXHIBIT
D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

AMERICAN ITALIAN PASTA
COMPANY,

Opposer,

v.

BARILLA G. E R. FRATELLI-SOCIETA
PER AZIONI,

Applicant.

)
)
) Opposition No. 91161373
)
)
)
)
)
)
)
)

**OPPOSER'S RESPONSES TO APPLICANT'S THIRD SET OF
REQUESTS FOR ADMISSIONS NOS. 15-20**

American Italian Pasta Company ("AIPC"), by and through its counsel, hereby responses to Applicant's Third Set of Requests for Admissions as follows:

GENERAL OBJECTIONS

Opposer hereby incorporates by reference its General Objections to Applicant's First Set of Interrogatories.

RESPONSES

Subject to, and without waiving the foregoing general objections, AIPC provides the following responses to Applicant's Third Set of Requests for Admissions:

Request No. 15:

Admit that the documents Bates Numbered A05000 - A05074 contained on the CD-ROM attached hereto as Exhibit A are true and authentic copies of documents produced by Opposer.

Response: Opposer objects to this Request for Admission to the extent that they seek admissions as to the authenticity of the documents because witnesses not yet been interviewed or deposed may provide a basis to challenge the authenticity of one or more documents.

Accordingly, the information presently known or readily obtainable by Opposer is insufficient to enable Opposer to admit or deny the authenticity of the documents and, therefore, Opposer denies same. Opposer, thus, reserves the right to challenge the authenticity of any document referenced in these Requests based on facts learned during the proceeding. Respondents, however, acknowledge that documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in the regular course of business. Notwithstanding these objections, Opposer ultimately may agree to the authenticity of some or all of the referenced documents during the remaining portion of this Opposition Proceeding.

Request No. 16:

Admit that the documents Bates Numbered A05074 - A10826 contained on the CD-ROM attached hereto as Exhibit B are true and authentic copies of documents produced by Opposer.

Response: Opposer objects to this Request for Admission to the extent that they seek admissions as to the authenticity of the documents because witnesses not yet been interviewed or deposed may provide a basis to challenge the authenticity of one or more documents.

Accordingly, the information presently known or readily obtainable by Opposer is insufficient to enable Opposer to admit or deny the authenticity of the documents and, therefore, Opposer denies same. Opposer, thus, reserves the right to challenge the authenticity of any document referenced in these Requests based on facts learned during the proceeding. Respondents, however, acknowledge that documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in

the regular course of business. Notwithstanding these objections, Opposer ultimately may agree to the authenticity of some or all of the referenced documents during the remaining portion of this Opposition Proceeding.

Request No. 17:

Admit that the documents Bates Numbered A10832 - A10863 contained on the CD-ROM attached hereto as Exhibit C are true and authentic copies of documents produced by Opposer.

Response: Opposer objects to this Request for Admission to the extent that they seek admissions as to the authenticity of the documents because witnesses not yet been interviewed or deposed may provide a basis to challenge the authenticity of one or more documents. Accordingly, the information presently known or readily obtainable by Opposer is insufficient to enable Opposer to admit or deny the authenticity of the documents and, therefore, Opposer denies same. Opposer, thus, reserves the right to challenge the authenticity of any document referenced in these Requests based on facts learned during the proceeding. Respondents, however, acknowledge that documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in the regular course of business. Notwithstanding these objections, Opposer ultimately may agree to the authenticity of some or all of the referenced documents during the remaining portion of this Opposition Proceeding.

Request No. 18:

Admit that the documents Bates Numbered U00001 - U04570 contained on the CD-ROM

attached hereto as Exhibit D are true and authentic copies of documents produced by Opposer.

Response: Opposer objects to this Request for Admission to the extent that they seek admissions as to the authenticity of the documents because witnesses not yet been interviewed or deposed may provide a basis to challenge the authenticity of one or more documents.

Accordingly, the information presently known or readily obtainable by Opposer is insufficient to enable Opposer to admit or deny the authenticity of the documents and, therefore, Opposer denies same. Opposer, thus, reserves the right to challenge the authenticity of any document referenced in these Requests based on facts learned during the proceeding. Respondents, however, acknowledge that documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in the regular course of business. Notwithstanding these objections, Opposer ultimately may agree to the authenticity of some or all of the referenced documents during the remaining portion of this Opposition Proceeding.

Request No. 19:

Admit that the documents Bates Numbered A10864 - A10880 contained on the CD-ROM attached hereto as Exhibit E are true and authentic copies of documents produced by Opposer.

Response: Opposer objects to this Request for Admission to the extent that they seek admissions as to the authenticity of the documents because witnesses not yet been interviewed or deposed may provide a basis to challenge the authenticity of one or more documents.

Accordingly, the information presently known or readily obtainable by Opposer is insufficient to

enable Opposer to admit or deny the authenticity of the documents and, therefore, Opposer denies same. Opposer, thus, reserves the right to challenge the authenticity of any document referenced in these Requests based on facts learned during the proceeding. Respondents, however, acknowledge that documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in the regular course of business. Notwithstanding these objections, Opposer ultimately may agree to the authenticity of some or all of the referenced documents during the remaining portion of this Opposition Proceeding.

Request No. 20:

Admit that the documents Bates Numbered A10881 - A11284 contained on the CD-ROM attached hereto as Exhibit F are true and authentic copies of documents produced by Opposer.

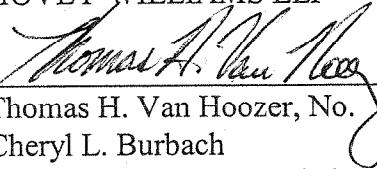
Response: Opposer objects to this Request for Admission to the extent that they seek admissions as to the authenticity of the documents because witnesses not yet been interviewed or deposed may provide a basis to challenge the authenticity of one or more documents.

Accordingly, the information presently known or readily obtainable by Opposer is insufficient to enable Opposer to admit or deny the authenticity of the documents and, therefore, Opposer denies same. Opposer, thus, reserves the right to challenge the authenticity of any document referenced in these Requests based on facts learned during the proceeding. Respondents, however, acknowledge that documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in the regular course of business. Notwithstanding these objections, Opposer ultimately may agree

to the authenticity of some or all of the referenced documents during the remaining portion of this Opposition Proceeding.

HOVEY WILLIAMS LLP

By



Thomas H. Van Hoozer, No.
Cheryl L. Burbach
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108
Phone: (816) 474-9050
Fax: (816) 474-9057

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of July, 2005, I served the foregoing Opposer's Responses to Applicant's Third Set of Requests for Admissions No's 15-20 by causing a true copy thereof to be sent via first class, postage paid, to the following:

G. Franklin Rothwell
Carla Calcagno
ROTHWELL, FIGG, ERNST & MANBECK P.C.
1425 K Street, NW, Suite 800
Washington, DC 20005

